

**Introduced by Senator Kopp**

February 28, 1997

---

An act to add Article 8.5 (commencing with Section 44088) to Chapter 5 of Part 5 of Division 26 of the Health and Safety Code, and to amend Section 6262 of the Revenue and Taxation Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1250, as introduced, Kopp. Air pollution: vehicles: federal oil overcharge funds.

(1) Existing law establishes a motor vehicle inspection and maintenance (smog check) program and a program for the repair or removal of high-emission vehicles.

This bill would establish a smog check repair assistance program to repair high-emission vehicles.

(2) Existing law generally requires any person registering a 1975 or subsequent model year gasoline-powered motor vehicle or a 1980 or subsequent model year diesel-powered vehicle last registered outside this state to pay a \$300 smog impact fee to the Department of Motor Vehicles at the time of registration. These revenues are required to be deposited in the General Fund after deduction of certain costs.

This bill would require those funds to be deposited in the Smog Check Repair Assistance Account which the bill would create in the Vehicle Inspection and Repair Fund, to be used, upon appropriation by the Legislature, for the purposes of the smog check repair assistance program.

(3) Under existing law, funds in the Petroleum Violation Escrow Account, as defined in federal law, consisting of

federal oil overcharge funds, have been disbursed to this state by the federal government and deposited in the Federal Trust Fund in the State Treasury, a continuously appropriated fund.

This bill would, to the extent permitted by federal law, require all funds deposited in that fund to be transferred to and deposited in the Smog Check Repair Assistance Account, to be used, upon appropriation, for the purposes of the smog check repair assistance program. Those funds would be disbursed by the Controller, subject to approval by the Director of Finance as to which court judgment or federal agency order is the proper source of the funds.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 8.5 (commencing with Section  
2 44088) is added to Chapter 5 of Part 5 of Division 26 of the  
3 Health and Safety Code, to read:

4

5 Article 8.5. Smog Check Repair Assistance Program

6

7 44088. For purposes of this article, the following terms  
8 have the following meaning:

9 (a) "Account" means the Smog Check Repair  
10 Assistance Account created by subdivision (a) of Section  
11 44088.1.

12 (b) "High polluter" means a high-emission motor  
13 vehicle, including, but not limited to, a gross polluter.

14 44088.1. (a) The Smog Check Repair Assistance  
15 Account is hereby created in the Vehicle Inspection and  
16 Repair Fund. All money deposited in the account  
17 pursuant to this article, subdivision (c) of Section 6262 of  
18 the Revenue and Taxation Code, or any other provision  
19 of law shall be available, upon appropriation by the  
20 Legislature, to the department to establish and  
21 implement a program for the repair of high polluters  
22 pursuant to this article.



(b) The department may accept donations or grants of funds from any person for purposes of the program and shall deposit that money in the account.

(c) The funds which are available in the account in any fiscal year for a particular area that is subject to an inspection and maintenance program shall be determined by calculating the percentage of vehicles registered in that area to the total number of vehicles registered in areas that are subject to inspection and maintenance programs. That percentage shall be the percentage of the total funds allocated to the program in that fiscal year which are available for that particular area.

44088.2. The smog check repair assistance program shall be designed to repair motor vehicles registered in this state that are subject to an inspection and maintenance program, are producing high levels of emissions as a result of their use in this state, and exceed the allowable emissions standards for those vehicles as determined through required vehicle inspections.

44088.3. The repair of high polluters under the smog check repair assistance program shall be designed to offer repair cost assistance to qualified low-income motor vehicle owners for vehicles that are in need of repairs to obtain a certificate of compliance, as determined by the department.

44088.4. (a) Participation in the smog check repair assistance program shall be voluntary and shall be available to the owners of high polluters that are registered in an area that is subject to an inspection and maintenance program, have been registered to the owner for at least 24 months, are presently operational, and meet other criteria, as determined by the department.

(b) The program shall provide for payment to the owner of up to 80 percent of the total cost of repair, as determined by the department, but the payment shall not exceed four hundred dollars (\$400). The vehicle owner shall be responsible for the remainder of the repair cost.

(c) The department may increase the payment amount limits specified in subdivision (b) to reflect changes in the Consumer Price Index, as published by the United States Bureau of Labor Statistics.

(d) The department may authorize participation in the program based on a reasonable estimate of the future revenues that will be available to the program.

SEC. 2. Section 6262 of the Revenue and Taxation Code is amended to read:

6262. (a) In addition to any other fees and taxes required ~~to be paid by this code and the Vehicle Code and this code to be paid~~ at the time of ~~the~~ registration of a motor vehicle, as defined in Section 415 of the Vehicle Code, a person making application to register a 1975 or subsequent model year gasoline-powered motor vehicle or a 1980 or subsequent model year diesel-powered motor vehicle ~~which that~~ is subject to ~~the requirements of~~ Section 4000.2 of the Vehicle Code shall pay to the Department of Motor Vehicles a motor vehicle smog impact fee of three hundred dollars (\$300) for any such motor vehicle which, prior to the date of application, was last registered outside this state, unless the motor vehicle has been certified pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code. This subdivision does not authorize the registration of motor vehicles ~~which that~~ are prohibited from being brought into this state pursuant to Article 1.5 (commencing with Section 43150) of Chapter 2 of Part 5 of Division 26 of the Health and Safety Code.

(b) The determination that a vehicle is subject to the fee imposed pursuant to ~~this section~~ *subdivision (a)* shall be made by the Department of Motor Vehicles, or its designee.

(1) For purposes of this chapter, if a motor vehicle does not have affixed a vehicle emission control label from which the Department of Motor Vehicles may determine whether the vehicle is California-certified, the vehicle shall be presumed not to be California-certified unless confirmed to be by the manufacturer.

1 (2) Any manufacturer of light-duty motor vehicles  
2 doing business in ~~California~~ *this state* shall provide  
3 information, within 30 days *from the date* of the receipt  
4 of a request from the Department of Motor Vehicles,  
5 stating whether a vehicle, identified in the request by the  
6 vehicle identification number (VIN) assigned by the  
7 manufacturer in accordance with federal law, has been  
8 certified for sale in ~~California~~ *this state* pursuant to  
9 Chapter 2 (commencing with Section 43100) of Part 5 of  
10 Division 26 of the Health and Safety Code.

11 (3) For purposes of this ~~section~~ *subdivision*, “vehicle  
12 emission control label” means the permanent label *that*  
13 vehicle manufacturers are required to affix to motor  
14 vehicles certified by the State Air Resources Board for  
15 sale in ~~California~~ *this state* in accordance with Chapter 2  
16 (commencing with Section 43100) of Part 5 of Division 26  
17 of the Health and Safety Code and pursuant to Sections  
18 1965 and 1965.5 of Title 13 of the California Code of  
19 Regulations *or any successor regulation*.

20 (c) After deduction of all costs incurred by the  
21 ~~department~~ *Department of Motor Vehicles* in carrying  
22 out this section which have been approved by the  
23 Department of Finance, the revenues received pursuant  
24 to this section shall be deposited in the ~~General Fund~~  
25 *Smog Check Repair Assistance Account created by*  
26 *subdivision (a) of Section 44088.1 of the Health and Safety*  
27 *Code*.

28 (d) This section does not apply to a commercial  
29 vehicle, as defined in Section 260 of the Vehicle Code,  
30 with an unladen weight in excess of 6,000 pounds.

31 (e) This section does not apply to any vehicle owned  
32 by a person who, pursuant to military orders or within  
33 three years following the date of discharge from or  
34 release from active duty in the armed forces of the United  
35 States, enters ~~California~~ *this state* for the purpose of  
36 establishing or reestablishing residence or accepting  
37 gainful employment, if the vehicle was acquired by the  
38 owner in a foreign jurisdiction where those military  
39 orders required the owner’s presence.

(f) This section does not apply to any vehicle that is required to be registered on or after January 1, 1993, that has been subject to the fee imposed by this section within the prior four years, if the emission control devices and systems were not modified ~~out~~*—of outside this state* subsequent to the previous payment of that fee.

(g) Notwithstanding any other provision of law, the fee imposed pursuant to subdivision (a) is imposed pursuant to the Sales and Use Tax Law.

SEC. 3. (a) The Legislature hereby finds and declares that the repair of high-emission motor vehicles results in improved operating efficiency and reduced energy consumption, as well as in reduced emissions.

(b) Notwithstanding Sections 13340 and 16361 of the Government Code, all funds received by the state from federal oil overcharge funds in the Petroleum Violation Escrow Account, as defined by Section 155 of the Further Continuing Appropriations Act of 1983 (P.L. 97-377) or other federal law, consisting of federal oil overcharge funds available pursuant to court judgments or federal agency orders, and deposited in the Federal Trust Fund, created by Section 16360 of the Government Code, shall be transferred to and deposited in the Smog Check Repair Assistance Account created by subdivision (a) of Section 44088.1 of the Health and Safety Code, to be used, upon appropriation pursuant to subdivision (c), for the purposes of Article 8.5 (commencing with Section 44088) of Chapter 5 of Part 5 of Division 26 of the Health and Safety Code, to the extent permitted by federal law.

(c) The money deposited in the Smog Check Repair Assistance Account pursuant to subdivision (b) shall, upon appropriation by the Legislature, be disbursed by the Controller, subject to approval by the Director of Finance as to which court judgment or federal agency order is the proper source of those funds, for the purposes specified in subdivision (b).